

BOBBY SINGLETON, RODGER SMITHERMAN, EDDIE BILLINGSLEY, LEONETTE W. SLAY, DARRYL ANDREWS, and ANDREW WALKER,

Plaintiffs,

v.

JOHN H. MERRILL, in his official capacity as Alabama Secretary of State,

Defendant.

NO. 2:21-CV-01291-SGC

MOTION TO EXPEDITE APPOINTMENT OF THREE-JUDGE PANEL

Plaintiffs hereby move the Court to expedite the appointment of a three-judge panel to hear this action, so that this Court can rule and provide relief in time before Alabama's January 28, 2021, qualifying date for the May 2022 primaries. As grounds for this motion, Plaintiffs state as follows:

1. Alabama's current Congressional redistricting plan, Ala. Act No. 2011-518, is malapportioned and racially gerrymandered, packing black voters in a single majority-black Congressional district and minimizing their influence in other districts.

2. This action is brought to require the Alabama Legislature to enact a new districting plan with 2020 census data that remedies the existing unconstitutional gerrymander by restoring Alabama's traditional redistricting principle of drawing its Congressional districts with whole counties.

3. To remedy a racial gerrymander, the Legislature must not allow traditional redistricting principles to be subordinated to racial considerations, unless they are necessary to satisfy a narrowly tailored, compelling state interest. *E.g.*, *Alabama Legislative Black Caucus v. Alabama*, 575 U.S. 254, 272 (2015); *Abrams v. Johnson*, 521 U.S. 74, 81, 85-86 (1997).

4. Based on the Alabama Legislature's Permanent Reapportionment Committee's comments at public hearings in September 2021, instead of adopting Plaintiff's Whole County plan, the legislature intends in an October 2021 Special Session to develop a redistricting plan that perpetuates the 2011 racial gerrymander.

5. Defendant John Merrill is sued in his official capacity as the Alabama Secretary of State. As Secretary of State, Defendant Merrill certifies, to the judge of probate of each county, the names of candidates for members of Congress to be placed on the ballot in the primary election, Ala. Code § 17-13-5(b).

6. Under the Administrative Calendar published by the Secretary of State, <https://www.sos.alabama.gov/sites/default/files/Admin%20Calendar%20->

[2022%20-%2020210604%20LB_0.pdf](#), “Candidates intending to participate in the [May 24, 2022,] primary election may begin soliciting and accepting contributions [§ 17-5-7(b)(2)]” on May 24, 2021; and “Candidates seeking nomination by a party primary must file declaration of candidacy with state party chairman (if seeking federal, state, circuit, district, or legislative office) ... no later than this day [January 28, 2022] by 5 PM; 116 days before the election. [§ 17-13-5(a)].”

7. To raise funds, the clock already ticks for potential candidates. Moreover, potential candidates should know the district in which they might run weeks before the current qualifying deadline of January 28, 2022.

8. This action has been initially assigned to a Magistrate Judge. See Doc. 3 (Notice of Assignment of Case to a United States Magistrate Judge for Trial).

9. “[A] district court of three judges shall be convened . . . when an action is filed challenging the constitutionality of the apportionment of congressional districts” 28 U.S.C. § 2284(a)

10. With this action, Plaintiffs challenge the constitutionality of the apportionment of congressional districts and have requested a three-judge district court panel. Doc. 1.

11. Therefore, time is of the essence for this action, and a final hearing in November or December 2021, well before the 2022 primary elections, by a three-

judge panel is needed or this Court would not be able to provide meaningful relief for the 2022 elections.

WHEREFORE, Plaintiffs request this Court to expedite appointment of a three-judge panel and to grant such other and further relief as the Court may deem just and equitable.

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CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will give notice of such filing to the following:

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